IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8080 of 1988

with

SPECIAL CIVIL APPLICATION Nos. 8065 to 8082 of 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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DR. VASUDEV DALSUKHBHAI UPADHYAY - Petitioner(s)

Versus

SISVA GRAM AROGYA MANDAL & 1 - Respondent(s)

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Appearance :

NOTICE NOT RECD BACK for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1 – 2.

MR LB DABHI, AGP for Respondent No.2

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 22/11/2005

COMMON ORAL JUDGMENT

1.The petitioners in all 19 in number have filed different petitions praying for quashing and setting aside the termination orders of the petitioners and further prayed for the direction to respondent for reinstatement with full back wages. By way of amendment the petitioners have also prayed for the direction to the State Government to absorb the petitioners at suitable places in the respective Primary Health Centers or any other places with retrospective effect from the date of their retrenchment.

2.. It is the case of the petitioners that the petitioners were the employee of the respondent Nos.1 to 5 association. The petitioners were working in various capacity as doctor, clerk, nurse, compounder, peon etc. All the petitioners have been illegally and unlawfully terminated by the respective associations

without following the procedure prescribed by law. None of the petitioners have been given any retrenchment compensation by the respondents. In some of the cases the petitioners are not even given any notice of termination though required by law. The petitioners were in the service of respondent associations for many years.

3.The State Government in August, 1986 decided to set up Primary Health Centers in the villages where the respondent associations were running the hospitals. The respondent association decided to hand over the hospitals to the State Government for the purpose of starting Primary Health Centers therein. The respondent association at the time of handing over hospitals to the State Government terminated the petitioners and thereby retrenched the entire staff of the said hospitals. The

petitioners being aggrieved and dissatisfied by the termination orders approached this Court for necessary writ under Article 226 of the Constitution of India.

4. The main ground on which the termination orders were challenged by the petitioners in all these petitions are that the termination of the petitioners was absolutely illegal and unjust. In some of the cases notice for termination was not issued and in all cases retrenchment compensation has not been paid. In most of the cases the petitioners have put in continuous service of minimum one year and in some cases upto 20 years. All the petitioners were entitled to retrenchment compensation under Section 25F(b) of the said Act. The government policy of taking over existing hospitals run by Gram Arogya Mandals and setting up Primary Health Centers therein

is illegal, unjust and unlawful. On account of the said government policy the petitioners have lost their services. The petitioners have information to the effect that the State Government was likely to continue the said policy and a large number of hospitals were going to be closed down. It is also contended that the State Government should have continued the petitioners in service while setting up the Primary Health Centers. The said newly set up Primary Health Centers require a new staff for running the hospitals and hence the petitioners should have been absorbed in Primary Health Centers and thereby continue them in service.

5. The petition was admitted and rule was issued on 13.12.1991. The Court has also passed an order on that date to continue the interim relief. This petition was filed by their learned advocate, who was later on elevated to

the bench of this Court. Thereafter, fresh notice was issued to the petitioners. Office endorsement shows that the notice issued by this Court was not received back.

6. Mr.L.B.Dabhi, learned AGP appearing for the State of Gujarat has submitted that after filing of the aforesaid petitions, some of the orders were passed by the District Panchayat whereby most of the petitioners have been absorbed. He has placed on record orders dated 16.3.1990, September, 1990 and 12.4.1990 whereby many of the petitioners were absorbed. It, therefore, appears to the Court that most of the petitioners have been absorbed by the respondent authorities and that may be one of the reason that the petitioners have not shown any interest to pursue this matter. The Court is, therefore, of the view that the petitioners grievance is more or less redressed and

petitions have become infructuous. Since the petitions are of 1988-89 the Court is not inclined to keep these matters pending for any longer period. The Court, therefore, disposes off all these petitions without going into the merits of the matter and also keeping in mind the fact that the grievance of most of the petitioners have been redressed. However, liberty is reserved to the petitioners to approach this Court in case of any difficulty and if need so arises in future.

7. With the aforesaid observations and clarifications all these petitions are disposed off by this common judgment and order. Rule is discharged. Accordingly all these petitions are disposed off without any order as to costs.

(K. A. PUJ, J.)

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